THE HON'BLE THE ACTING CHIEFJUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.A.No.923 of 2007

DATE: 5-12-2007

Between:

S.Ansar Basha .. Appellant

And

1. The Additional Registrar of
Cooperative Societies, Hyderabad and
2 others .. Respondents

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THE HON'BLE THE ACTING CHIEFJUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.A.No.923 of 2007

COMMON ORDER: (per THE HON'BLE THE ACTING CHIEFJUSTICE BILAL NAZKI)

Heard the learned counsel for the parties.

The writ petition is filed by the appellant. He sought quashing the order passed by the 1st respondent dated 1.12.2000, in the writ petition and also the consequential order passed by the 2nd respondent dated 13.9.2000. There is some appeal also pending in A.S.184 of 2007. It appears that both the matters were being heard together. When the matters were being finally argued, the Learned Single judge passed an order against which this appeal has been filed. The order reads as under:

"The record of these two matters, i.e., appeal as well as the writ petition discloses that the writ petitioner/appellant had resorted to gross misuse of the process of Court. He has subjected the respondents to numerous proceedings before the Authorities under the A.P. Cooperative Societies Act, Civil Court, Government, and this Court, for the past four decades. The orders passed at various levels did not have any effect upon him, and he is merrily enjoying the property, despite he is being offered the cost of the land as well as the structure.

As an extraordinary measure, to uphold the Rule of Law, and the dignity of the institution, this court directs that the petitioner shall put the respondents in possession of the premises by 30th October, 2007. In case, he does not comply with this order, the nature of remedy and compensation to be awarded to the respondents, would be considered by this Court thereafter.

Post for judgment n 2.11.2007"

The appellant before us was the appellant in A.S.184 of 2007 and he was writ petitioner in W.P.No.5419 of 2001. The learned counsel for the appellant submits that he could understand that if the appeal and the writ petition both were dismissed, on merits. It could also be understand if he was burdened with costs, had the Court come to the conclusion that an abuse of process of law was being perpetrated by the appellant, but in no circumstance, the order at an interim stage, could be passed against the appellant who was the writ petitioner and the appellant in the first appeal. Now in view of the impugned order, he would lose the possession of the property even before his case was decided by the Court on merits. He submits that the matter was adjourned finally and the learned Single Judge also ordered "post for judgment on 2.11.2007".

When such an order had been passed then there was no necessity to pass an order directing the petitioner to vacate the premises and hand over possession to the other side. The learned counsel for the respondents did not make any submission and states that he leaves the matter to the Court obviously, perhaps finding the order to be indefensible.

Since such an order could not have been passed in a writ petition filed by the petitioner, we set aside the order of the learned Single Jude and allow the writ appeal. We have not made any observations or findings on the merits of the case. The observations have been made only for the purpose of deciding the present appeal.

The learned Single Judge after reserving the writ petition and first appeal for judgment has passed an order on 13.11.2007,

after filing the present appeal, that the matter be listed along with the writ appeal.

List W.P.No.5419 of 2001 and A.S.184 of 2007 before the Learned Single Judge within next two weeks.

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BILAL NAZKI, ACJ

Date:5.12.2007

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RAMESH RANGANATHAN, J

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